

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL ZIOMBER,

Plaintiff,

Civil Action No.
10-CV-10355

vs.

HON. MARK A. GOLDSMITH

NATIONAL ASSOCIATION OF LETTER
CARRIERS and PATRICK CARROLL,

Defendants.

**ORDER (1) ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION, (2) GRANTING DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT, AND (3) DISMISSING CASE**

This matter is presently before the Court on the Report and Recommendation ("R&R") of Magistrate Judge Donald A. Scheer, entered on September 22, 2010. The Magistrate Judge recommends that Defendants' Motion for Summary be granted and that this case be dismissed. On October 12, 2010, Plaintiff filed untimely objections to the Magistrate Judge's R&R.¹

¹ The parties had fourteen days from the filing of the R&R to file objections. See Fed. R. Civ. P. 72(b)(2); R&R at 5 (advising the parties that they have fourteen days from the date of the R&R to file objections pursuant to Fed. R. Civ. P. 72(b)(2)). The R&R was issued on September 22, 2010; thus, Plaintiff had until fourteen days thereafter, or until October 7, 2010, to file objections. As the objections were not filed until October 12, 2010, they are untimely.

In any event, the Court has considered Plaintiff's objections and finds them to be without merit. The issue in this case is whether Plaintiff's claim against the union for breach of its duty of fair representation is barred pursuant to the applicable six-month limitations period. Plaintiff discusses the statute of limitations issue on pages 3-4 of his objections. Although Plaintiff states that he disagrees with the Magistrate Judge's conclusion that his claim is time-barred, he does not support his position with any legal authority or explain why the Magistrate Judge's conclusion is erroneous. Instead, Plaintiff explains that he has been unable to find an attorney willing to represent him in this matter, that any delay in bringing this action was not harmful or malicious, and that he "never knew" of the statute of limitations. Plaintiff also re-argues his

The Court has had an opportunity to fully review this matter and finds that the Magistrate Judge has reached the proper conclusions for the proper reasons. Therefore, the findings and conclusions of the Magistrate Judge are accepted and adopted as the findings and conclusions of the Court. Accordingly,

IT IS ORDERED that the Magistrate Judge's R&R is accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED that this case is dismissed.

Dated: October 15, 2010
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email addresses or First Class U.S. mail disclosed on the Notice of Electronic Filing on October 15, 2010.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager

fraud argument, which was addressed by the Magistrate Judge in his R&R at pages 3-4. While the Court understands that Plaintiff feels strongly about his claim against the union, there is no legal basis supporting Plaintiff's position that this case is not time-barred. Therefore, the Court is without authority to allow this case to proceed.